

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2118

AN ACT

AMENDING SECTIONS 15-185, 15-512 AND 15-534, ARIZONA REVISED STATUTES;  
RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-185, Arizona Revised Statutes, is amended to  
3 read:

4 15-185. Charter schools; financing; civil penalties;  
5 definitions

6 A. Financial provisions for a charter school that is sponsored by a  
7 school district governing board are as follows:

8 1. The charter school shall be included in the district's budget and  
9 financial assistance calculations pursuant to paragraph 3 of this subsection  
10 and chapter 9 of this title, except for chapter 9, article 4 of this title.  
11 The charter of the charter school shall include a description of the methods  
12 of funding the charter school by the school district. The school district  
13 shall send a copy of the charter and application, including a description of  
14 how the school district plans to fund the school, to the state board of  
15 education before the start of the first fiscal year of operation of the  
16 charter school. The charter or application shall include an estimate of the  
17 student count for the charter school for its first fiscal year of operation.  
18 This estimate shall be computed pursuant to the requirements of paragraph 3  
19 of this subsection.

20 2. A school district is not financially responsible for any charter  
21 school that is sponsored by the state board of education or the state board  
22 for charter schools.

23 3. A school district that sponsors a charter school may:

24 (a) Increase its student count as provided in subsection B, paragraph  
25 2 of this section during the first year of the charter school's operation to  
26 include those charter school pupils who were not previously enrolled in the  
27 school district. A charter school sponsored by a school district governing  
28 board is eligible for the assistance prescribed in subsection B, paragraph 4  
29 of this section. The soft capital allocation as provided in section 15-962  
30 for the school district sponsoring the charter school shall be increased by  
31 the amount of the additional assistance. The school district shall include  
32 the full amount of the additional assistance in the funding provided to the  
33 charter school.

34 (b) Compute separate weighted student counts pursuant to section  
35 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter  
36 school pupils in order to maintain eligibility for small school district  
37 support level weights authorized in section 15-943, paragraph 1 for its  
38 noncharter school pupils only. The portion of a district's student count  
39 that is attributable to charter school pupils is not eligible for small  
40 school district support level weights.

41 4. If a school district uses the provisions of paragraph 3 of this  
42 subsection, the school district is not eligible to include those pupils in  
43 its student count for the purposes of computing an increase in its revenue  
44 control limit and district support level as provided in section 15-948.

1           5. A school district that sponsors a charter school is not eligible to  
2 include the charter school pupils in its student count for the purpose of  
3 computing an increase in its capital outlay revenue limit as provided in  
4 section 15-961, subsection C, except that if the charter school was  
5 previously a school in the district, the district may include in its student  
6 count any charter school pupils who were enrolled in the school district in  
7 the prior year.

8           6. A school district that sponsors a charter school is not eligible to  
9 include the charter school pupils in its student count for the purpose of  
10 computing the revenue control limit which is used to determine the maximum  
11 budget increase as provided in chapter 4, article 4 of this title unless the  
12 charter school is located within the boundaries of the school district.

13           7. If a school district converts one or more of its district public  
14 schools to a charter school and receives assistance as prescribed in  
15 subsection B, paragraph 4 of this section, and subsequently converts the  
16 charter school back to a district public school, the school district shall  
17 repay the state the total additional assistance received for the charter  
18 school for all years that the charter school was in operation. The repayment  
19 shall be in one lump sum and shall be reduced from the school district's  
20 current year equalization assistance. The school district's general budget  
21 limit shall be reduced by the same lump sum amount in the current year.

22           B. Financial provisions for a charter school that is sponsored by the  
23 state board of education or the state board for charter schools are as  
24 follows:

25           1. The charter school shall calculate a base support level as  
26 prescribed in section 15-943, except that sections 15-941 and 15-942 do not  
27 apply to these charter schools.

28           2. Notwithstanding paragraph 1 of this subsection, the student count  
29 shall be determined initially using an estimated student count based on  
30 actual registration of pupils before the beginning of the school year. After  
31 the first one hundred days or two hundred days in session, as applicable, the  
32 charter school shall revise the student count to be equal to the actual  
33 average daily membership, as defined in section 15-901, or the adjusted  
34 average daily membership, as prescribed in section 15-902, of the charter  
35 school. Before the one hundredth day or two hundredth day in session, as  
36 applicable, the state board of education or the state board for charter  
37 schools may require a charter school to report periodically regarding pupil  
38 enrollment and attendance and the department of education may revise its  
39 computation of equalization assistance based on the report. A charter school  
40 shall revise its student count, base support level and additional assistance  
41 before May 15. A charter school that overestimated its student count shall  
42 revise its budget before May 15. A charter school that underestimated its  
43 student count may revise its budget before May 15.

1           3. A charter school may utilize section 15-855 for the purposes of  
2 this section. The charter school and the department of education shall  
3 prescribe procedures for determining average daily attendance and average  
4 daily membership.

5           4. Equalization assistance for the charter school shall be determined  
6 by adding the amount of the base support level and additional assistance.  
7 The amount of the additional assistance is one thousand three hundred thirty  
8 dollars five cents per student count in kindergarten programs and grades one  
9 through eight and one thousand five hundred fifty dollars fourteen cents per  
10 student count in grades nine through twelve.

11           5. The state board of education shall apportion state aid from the  
12 appropriations made for such purposes to the state treasurer for disbursement  
13 to the charter schools in each county in an amount as determined by this  
14 paragraph. The apportionments shall be made in twelve equal installments of  
15 the total amount to be apportioned during the fiscal year on the fifteenth  
16 day of each month of the fiscal year.

17           6. Notwithstanding paragraph 5 of this subsection, if sufficient  
18 appropriated monies are available after the first forty days in session of  
19 the current year, a charter school may request additional state monies to  
20 fund the increased state aid due to anticipated student growth through the  
21 first one hundred days or two hundred days in session, as applicable, of the  
22 current year as provided in section 15-948. In no event shall a charter  
23 school have received more than three-fourths of its total apportionment  
24 before April 15 of the fiscal year. Early payments pursuant to this  
25 subsection must be approved by the state treasurer, the director of the  
26 department of administration and the superintendent of public instruction.

27           7. The charter school shall not charge tuition, levy taxes or issue  
28 bonds.

29           8. Not later than noon on the day preceding each apportionment date  
30 established by paragraph 5 of this subsection, the superintendent of public  
31 instruction shall furnish to the state treasurer an abstract of the  
32 apportionment and shall certify the apportionment to the department of  
33 administration, which shall draw its warrant in favor of the charter schools  
34 for the amount apportioned.

35           C. If a pupil is enrolled in both a charter school and a public school  
36 that is not a charter school, the sum of the daily membership, which includes  
37 enrollment as prescribed in section 15-901, subsection A, paragraph 2,  
38 subdivisions (a) and (b) and daily attendance as prescribed in section  
39 15-901, subsection A, paragraph 6, for that pupil in the school district and  
40 the charter school shall not exceed 1.0. If a pupil is enrolled in both a  
41 charter school and a public school that is not a charter school, the  
42 department of education shall direct the average daily membership to the  
43 school with the most recent enrollment date. Upon validation of actual  
44 enrollment in both a charter school and a public school that is not a charter  
45 school and if the sum of the daily membership or daily attendance for that

1 pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be  
2 apportioned between the public school and the charter school based on the  
3 percentage of total time that the pupil is enrolled or in attendance in the  
4 public school and the charter school. The uniform system of financial  
5 records shall include guidelines for the apportionment of the pupil  
6 enrollment and attendance as provided in this section.

7 D. Charter schools are allowed to accept grants and gifts to  
8 supplement their state funding, but it is not the intent of the charter  
9 school law to require taxpayers to pay twice to educate the same pupils. The  
10 base support level for a charter school or for a school district sponsoring a  
11 charter school shall be reduced by an amount equal to the total amount of  
12 monies received by a charter school from a federal or state agency if the  
13 federal or state monies are intended for the basic maintenance and operations  
14 of the school. The superintendent of public instruction shall estimate the  
15 amount of the reduction for the budget year and shall revise the reduction to  
16 reflect the actual amount before May 15 of the current year. If the  
17 reduction results in a negative amount, the negative amount shall be used in  
18 computing all budget limits and equalization assistance, except that:

19 1. Equalization assistance shall not be less than zero.

20 2. For a charter school sponsored by the state board of education or  
21 the state board for charter schools, the total of the base support level, the  
22 capital outlay revenue limit, the soft capital allocation and the additional  
23 assistance shall not be less than zero.

24 3. For a charter school sponsored by a school district, the base  
25 support level for the school district shall not be reduced by more than the  
26 amount that the charter school increased the district's base support level,  
27 capital outlay revenue limit and soft capital allocation.

28 E. If a charter school was a district public school in the prior year  
29 and is now being operated for or by the same school district and sponsored by  
30 the state board of education, the state board for charter schools or a school  
31 district governing board, the reduction in subsection D of this section  
32 applies. The reduction to the base support level of the charter school or  
33 the sponsoring district of the charter school shall equal the sum of the base  
34 support level and the additional assistance received in the current year for  
35 those pupils who were enrolled in the traditional public school in the prior  
36 year and are now enrolled in the charter school in the current year.

37 F. Equalization assistance for charter schools shall be provided as a  
38 single amount based on average daily membership without categorical  
39 distinctions between maintenance and operations or capital.

40 G. At the request of a charter school, the county school  
41 superintendent of the county where the charter school is located may provide  
42 the same educational services to the charter school as prescribed in section  
43 15-308, subsection A. The county school superintendent may charge a fee to  
44 recover costs for providing educational services to charter schools.

1           H. If the sponsor of the charter school determines at a public meeting  
2 that the charter school is not in compliance with federal law, with the laws  
3 of this state or with its charter, the sponsor of a charter school may submit  
4 a request to the department of education to withhold up to ten per cent of  
5 the monthly apportionment of state aid that would otherwise be due the  
6 charter school. The department of education shall adjust the charter  
7 school's apportionment accordingly. The sponsor shall provide written notice  
8 to the charter school at least seventy-two hours before the meeting and shall  
9 allow the charter school to respond to the allegations of noncompliance at  
10 the meeting before the sponsor makes a final determination to notify the  
11 department of education of noncompliance. The charter school shall submit a  
12 corrective action plan to the sponsor on a date specified by the sponsor at  
13 the meeting. The corrective action plan shall be designed to correct  
14 deficiencies at the charter school and to ensure that the charter school  
15 promptly returns to compliance. When the sponsor determines that the charter  
16 school is in compliance, the department of education shall restore the full  
17 amount of state aid payments to the charter school.

18           I. IN ADDITION TO THE WITHHOLDING OF STATE AID PAYMENTS PURSUANT TO  
19 SUBSECTION H OF THIS SECTION, THE SPONSOR OF A CHARTER SCHOOL MAY IMPOSE A  
20 CIVIL PENALTY OF ONE THOUSAND DOLLARS PER OCCURRENCE IF A CHARTER SCHOOL  
21 FAILS TO COMPLY WITHIN FORTY-EIGHT HOURS OF WRITTEN NOTIFICATION, SIGNED BY  
22 THE STATE BOARD FOR CHARTER SCHOOLS AND THE SPONSOR OF THE CHARTER SCHOOL, OF  
23 NONCOMPLIANCE WITH THE FINGERPRINTING REQUIREMENTS PRESCRIBED IN SECTION  
24 15-183, SUBSECTION C OR SECTION 15-512. THE SPONSOR SHALL OBTAIN PROOF THAT  
25 THE CHARTER SCHOOL HAS BEEN NOTIFIED AND THE NOTIFICATION SHALL IDENTIFY THE  
26 DATE OF THE DEADLINE. A CIVIL PENALTY SHALL BE IMPOSED AGAINST A CHARTER  
27 SCHOOL THAT HAS PREVIOUSLY BEEN DETERMINED TO BE OUT OF COMPLIANCE WITH THESE  
28 FINGERPRINTING REQUIREMENTS. CIVIL PENALTIES PURSUANT TO THIS SECTION SHALL  
29 BE COLLECTED BY REQUESTING THE DEPARTMENT OF EDUCATION TO WITHHOLD AN AMOUNT  
30 OF STATE AID EQUIVALENT TO THE CIVIL PENALTY AND SHALL BE TRANSMITTED  
31 DIRECTLY TO THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL FUND.

32           ~~I.~~ J. A charter school may receive and spend monies distributed by  
33 the department of education pursuant to section 42-5029, subsection E and  
34 section 37-521, subsection B.

35           ~~J.~~ K. For the purposes of this section:

36           1. "Monies intended for the basic maintenance and operations of the  
37 school" means monies intended to provide support for the educational program  
38 of the school, except that it does not include supplemental assistance for a  
39 specific purpose or P.L. 81-874 monies. The auditor general shall determine  
40 which federal or state monies meet the definition in this paragraph.

41           2. "Operated for or by the same school district" means the charter  
42 school is either governed by the same district governing board or operated by  
43 the district in the same manner as other traditional schools in the district  
44 or is operated by an independent party that has a contract with the school

1 district. The auditor general and the department of education shall  
2 determine which charter schools meet the definition in this subsection.

3 Sec. 2. Section 15-512, Arizona Revised Statutes, is amended to read:

4 15-512. Noncertificated personnel; fingerprinting personnel;  
5 background investigations; affidavit; civil immunity;  
6 violation; classification; definition

7 A. Noncertificated personnel and personnel who are not paid employees  
8 of the school district and who are not either the parent or the guardian of a  
9 pupil who attends school in the school district but who are required or  
10 allowed to provide services directly to pupils without the supervision of a  
11 certificated employee and who are initially hired by a school district after  
12 January 1, 1990 shall be fingerprinted as a condition of employment except  
13 for personnel who are required as a condition of licensing to be  
14 fingerprinted if the license is required for employment or for personnel who  
15 were previously employed by a school district and who reestablished  
16 employment with that district within one year after the date that the  
17 employee terminated employment with the district. A school district may  
18 release the results of a background check to another school district for  
19 employment purposes. The employee's fingerprints and the form prescribed in  
20 subsection D of this section shall be submitted to the school district within  
21 twenty days after the date an employee begins work. A school district may  
22 terminate an employee if the information on the form provided under  
23 subsection D of this section is inconsistent with the information received  
24 from the fingerprint check. The school district shall develop procedures for  
25 fingerprinting employees. For the purposes of this subsection, "supervision"  
26 means under the direction of and, except for brief periods of time during a  
27 school day or a school activity, within sight of a certificated employee when  
28 providing direct services to pupils.

29 B. Fingerprint checks shall be conducted pursuant to section 41-1750,  
30 subsection G.

31 C. The school district shall assume the costs of fingerprint checks  
32 and may charge these costs to its fingerprinted employee, except that the  
33 school district may not charge the costs of the fingerprint check to  
34 personnel of the school district who are not paid employees. The fees charged  
35 for fingerprinting shall be deposited with the county treasurer who shall  
36 credit the deposit to the fingerprint fund of the school district. The costs  
37 charged to a fingerprinted employee are limited to and the proceeds in the  
38 fund may only be applied to the actual costs, including personnel costs,  
39 incurred as a result of the fingerprint checks. The fingerprint fund is a  
40 continuing fund which is not subject to reversion.

41 D. Personnel required to be fingerprinted as prescribed in subsection  
42 A of this section shall certify on forms that are provided by the school and  
43 notarized whether they are awaiting trial on or have ever been convicted of  
44 or admitted in open court or pursuant to a plea agreement committing any of

1 the following criminal offenses in this state or similar offenses in another  
2 jurisdiction:

- 3 1. Sexual abuse of a minor.
- 4 2. Incest.
- 5 3. First or second degree murder.
- 6 4. Kidnapping.
- 7 5. Arson.
- 8 6. Sexual assault.
- 9 7. Sexual exploitation of a minor.
- 10 8. Felony offenses involving contributing to the delinquency of a  
11 minor.
- 12 9. Commercial sexual exploitation of a minor.
- 13 10. Felony offenses involving sale, distribution or transportation of,  
14 offer to sell, transport, ~~or~~ or distribute or conspiracy to sell, transport or  
15 distribute marijuana or dangerous or narcotic drugs.
- 16 11. Felony offenses involving the possession or use of marijuana,  
17 dangerous drugs or narcotic drugs.
- 18 12. Misdemeanor offenses involving the possession or use of marijuana  
19 or dangerous drugs.
- 20 13. Burglary in the first degree.
- 21 14. Burglary in the second or third degree.
- 22 15. Aggravated or armed robbery.
- 23 16. Robbery.
- 24 17. A dangerous crime against children as defined in section 13-604.01.
- 25 18. Child abuse.
- 26 19. Sexual conduct with a minor.
- 27 20. Molestation of a child.
- 28 21. Manslaughter.
- 29 22. Aggravated assault.
- 30 23. Assault.
- 31 24. Exploitation of minors involving drug offenses.

32 E. A school district may refuse to hire or may review or terminate  
33 personnel who have been convicted of or admitted committing any of the  
34 criminal offenses prescribed in subsection D of this section or of a similar  
35 offense in another jurisdiction. A school district which is considering  
36 terminating an employee pursuant to ~~the provisions of~~ this subsection shall  
37 hold a hearing to determine whether a person already employed shall be  
38 terminated. In conducting a review, the governing board shall utilize the  
39 guidelines, including the list of offenses that are not subject to review, as  
40 prescribed by the state board of education pursuant to section 15-534,  
41 subsection C. In considering whether to hire or terminate the employment of  
42 a person the governing board shall take into account the following factors:

- 43 1. The nature of the crime and the potential for crimes against  
44 children.

1           2. Offenses committed as a minor for which proceedings were held under  
2 the jurisdiction of a juvenile or an adult court.

3           3. Offenses that have been expunged by a court of competent  
4 jurisdiction, if the person has been pardoned or if the person's sentence has  
5 been commuted.

6           4. The employment record of the person since the commission of the  
7 crime if the crime was committed more than ten years before the governing  
8 board's consideration of whether to hire or terminate the person.

9           5. The reliability of the evidence of an admission of a crime unless  
10 made under oath in a court of competent jurisdiction.

11           F. Before employment with the school district, the district shall make  
12 documented, good faith efforts to contact previous employers of a person to  
13 obtain information and recommendations which may be relevant to a person's  
14 fitness for employment. A governing board shall adopt procedures for  
15 conducting background investigations required by this subsection, including  
16 one or more standard forms for use by school district officials to document  
17 their efforts to obtain information from previous employers. A school  
18 district may provide information received as a result of a background  
19 investigation required by this section to any other school district, to any  
20 other public school and to any public entity that agrees pursuant to a  
21 contract or intergovernmental agreement to perform background investigations  
22 for school districts or other public schools. School districts and other  
23 public schools may enter into intergovernmental agreements pursuant to  
24 section 11-952 and cooperative purchasing agreements pursuant to rules  
25 adopted in accordance with section 15-213 for the purposes of performing or  
26 contracting for the performance of background investigations and for sharing  
27 the results of background investigations required by this subsection.  
28 Information obtained about an employee or applicant for employment by any  
29 school district or other public school in the performance of a background  
30 investigation may be retained by that school district or the other public  
31 school or by any public entity that agrees pursuant to contract to perform  
32 background investigations for school districts or other public schools and  
33 may be provided to any school district or other public school that is  
34 performing a background investigation required by this subsection.

35           G. A school district may fingerprint any other employee of the  
36 district, whether paid or not, or any other applicant for employment with the  
37 school district not otherwise required by this section to be fingerprinted on  
38 the condition that the school district may not charge the costs of the  
39 fingerprint check to the fingerprinted applicant or nonpaid employee.

40           H. Subsection A of this section does not apply to a person who  
41 provides instruction or other education services to a pupil, with the written  
42 consent of the parent or guardian of the pupil, under a work release program,  
43 advance placement course or other education program that occurs off school  
44 property.

1 I. Public entities that agree pursuant to contract to perform  
2 background investigations, public schools, the department of education and  
3 previous employers who provide information pursuant to this section are  
4 immune from civil liability unless the information provided is false and is  
5 acted on by the school district to the harm of the employee and the public  
6 entity, the public school, the previous employer or the department of  
7 education knows the information is false or acts with reckless disregard of  
8 the information's truth or falsity. A school district which relies on  
9 information obtained pursuant to this section in making employment decisions  
10 is immune from civil liability for use of the information unless the  
11 information obtained is false and the school district knows the information  
12 is false or acts with reckless disregard of the information's truth or  
13 falsity.

14 J. The superintendent of a school district or chief administrator of a  
15 charter school or the person's designee who is responsible for implementing  
16 the governing board's policy regarding background investigations required by  
17 subsection F of this section and who fails to carry out that responsibility  
18 is guilty of unprofessional conduct and shall be subject to disciplinary  
19 action by the state board.

20 K. A school district may hire noncertificated personnel before  
21 receiving the results of the fingerprint check but may terminate employment  
22 if the information on the form provided in subsection D of this section is  
23 inconsistent with the information received from the fingerprint check. In  
24 addition to any other conditions or requirements deemed necessary by the  
25 superintendent of public instruction to protect the health and safety of  
26 pupils, noncertificated personnel who are required or allowed unsupervised  
27 contact with pupils may be hired by school districts before the results of a  
28 fingerprint check are received if all of the following conditions are met:

29 1. The school district that is seeking to hire the applicant shall  
30 document in the applicant's file the necessity for hiring and placement of  
31 the applicant before a fingerprint check could be completed.

32 2. The school district that is seeking to hire the applicant shall do  
33 all of the following:

34 (a) Ensure that the department of public safety completes a statewide  
35 criminal history information check on the applicant. A statewide criminal  
36 history information check shall be completed by the department of public  
37 safety every one hundred twenty days until the date that the fingerprint  
38 check is completed.

39 (b) Obtain references from the applicant's current employer and two  
40 most recent previous employers except for applicants who have been employed  
41 for at least five years by the applicant's most recent employer.

42 (c) Provide general supervision of the applicant until the date that  
43 the fingerprint check is completed.

44 (d) Report to the superintendent of public instruction on June 30 and  
45 December 31 the number of applicants hired prior to the completion of a

1 fingerprint check. In addition, the school district shall report the number  
2 of applicants for whom fingerprint checks were not received after one hundred  
3 twenty days and after one hundred seventy-five days of hire.

4 L. Notwithstanding any other law, this section does not apply to  
5 pupils who attend school in a school district and who are also employed by a  
6 school district.

7 M. A person who makes a false statement, representation or  
8 certification in any application for employment with the school district is  
9 guilty of a class 3 misdemeanor.

10 N. THE STATE BOARD OF EDUCATION MAY IMPOSE A CIVIL PENALTY OF ONE  
11 THOUSAND DOLLARS PER OCCURRENCE IF A SCHOOL DISTRICT FAILS TO COMPLY WITHIN  
12 FORTY-EIGHT HOURS OF WRITTEN NOTIFICATION, SIGNED BY THE STATE BOARD OF  
13 EDUCATION AND THE SCHOOL DISTRICT GOVERNING BOARD, OF NONCOMPLIANCE WITH THE  
14 FINGERPRINTING REQUIREMENTS PRESCRIBED IN THIS SECTION. THE STATE BOARD OF  
15 EDUCATION SHALL OBTAIN PROOF THAT THE SCHOOL WHERE THE EMPLOYEE WILL BE  
16 ASSIGNED HAS BEEN NOTIFIED AND THE NOTIFICATION SHALL IDENTIFY THE DATE OF  
17 THE DEADLINE. A CIVIL PENALTY SHALL BE IMPOSED AGAINST A SCHOOL DISTRICT  
18 THAT HAS PREVIOUSLY BEEN DETERMINED TO BE OUT OF COMPLIANCE WITH THESE  
19 FINGERPRINTING REQUIREMENTS. CIVIL PENALTIES COLLECTED PURSUANT TO THIS  
20 SECTION SHALL BE COLLECTED BY REQUESTING THE DEPARTMENT OF EDUCATION TO  
21 WITHHOLD AN AMOUNT OF STATE AID EQUIVALENT TO THE CIVIL PENALTY AND SHALL BE  
22 TRANSMITTED DIRECTLY TO THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL  
23 FUND.

24 ~~N-~~ 0. For the ~~purpose~~ PURPOSES of this section, "background  
25 investigation" means any communication with an employee's or applicant's  
26 former employer that concerns the education, training, experience,  
27 qualifications and job performance of the employee or applicant and that is  
28 used for the purpose of evaluating the employee or applicant for employment.  
29 Background investigation does not include the results of any state or federal  
30 criminal history records check.

31 Sec. 3. Section 15-534, Arizona Revised Statutes, is amended to read:  
32 15-534. Fingerprinting; review and disciplinary action;  
33 violation; classification

34 A. A person who applies for a certificate as prescribed in section  
35 15-203 shall have a valid fingerprint clearance card that is issued pursuant  
36 to title 41, chapter 12, article 3.1. Applicants who possess a certificate  
37 pursuant to section 15-203 and who apply for additional certificates or who  
38 apply for renewal of any certificate shall meet one of the following  
39 requirements:

40 1. Have a valid fingerprint clearance card issued pursuant to title  
41 41, chapter 12, article 3.1.

42 2. Provide proof of the submission of an application for a fingerprint  
43 clearance card. Applicants who have been denied a fingerprint clearance card  
44 shall also provide proof that the applicant qualifies for a good cause  
45 exception hearing pursuant to section 41-619.55.

1           B. A person who is certified pursuant to section 15-203 shall maintain  
2 a valid fingerprint clearance card during the valid period of the person's  
3 certificate or certificates.

4           C. The state board of education may review and determine whether to  
5 renew or not issue a certificate to an applicant for certification on a  
6 finding that the applicant engaged in conduct that is immoral or  
7 unprofessional or engaged in conduct that would warrant disciplinary action  
8 if the person had been certified at the time that the alleged conduct  
9 occurred. The board shall prescribe guidelines for this process.

10          D. The state board of education may take disciplinary action against  
11 or not renew the certificate of a person on a finding that the certificated  
12 person engaged in conduct that is immoral or unprofessional or engaged in  
13 conduct that would warrant disciplinary action if the person had been  
14 certified at the time that the alleged conduct occurred. The board shall  
15 prescribe guidelines for this process.

16          E. The department of education may issue conditional certification  
17 before an applicant has obtained a valid fingerprint clearance card. A  
18 conditional certificate may be used only for employment in the school  
19 district that submits an application to the department of education for  
20 conditional certification pursuant to this subsection. The state board of  
21 education may revoke conditional certification if the information on the  
22 application for a conditional certificate is false or incomplete, the  
23 applicant is denied a fingerprint clearance card or the conditional  
24 certificate is used for employment in a school district other than the school  
25 district that is indicated on the application for conditional certification.  
26 In addition to any other conditions or requirements deemed necessary by the  
27 superintendent of public instruction to protect the health and safety of  
28 pupils, conditional certification shall be issued before the applicant  
29 obtains a fingerprint clearance card if all of the following conditions are  
30 met:

31           1. The school district that is seeking to hire the applicant verifies  
32 in writing on a form developed by the department of education the necessity  
33 for hiring and placement of the applicant before a fingerprint check is  
34 completed.

35           2. The school district that is seeking to hire the applicant performs  
36 all of the following:

37           (a) Ensures that the department of public safety completes a statewide  
38 criminal records check on the applicant. A statewide criminal records check  
39 shall be completed by the department of public safety every one hundred  
40 twenty days until the date that the fingerprint check is completed.

41           (b) Completes a search of criminal records in all local jurisdictions  
42 outside of this state in which the applicant has lived in the previous five  
43 years.

1 (c) Obtains references from the applicant's current employer and two  
2 most recent previous employers except for applicants who have been employed  
3 for at least five years by the applicant's most recent employer.

4 (d) Provides general supervision of the applicant until the applicant  
5 receives permanent certification from the department of education.

6 F. Before employment, schools or school districts shall verify the  
7 certification and fingerprint status of applicants who apply for school or  
8 school district positions that require certification.

9 G. The state board of education shall notify the department of public  
10 safety if the state board of education receives credible evidence that a  
11 person who possesses a valid fingerprint clearance card either:

12 1. Is arrested for or charged with an offense listed in section  
13 41-1758.03, subsection B.

14 2. Falsified information on the form required by subsection A of this  
15 section.

16 H. A person who makes a false statement, representation or  
17 certification in any application for certification is guilty of a class 3  
18 misdemeanor.

19 I. THE STATE BOARD OF EDUCATION MAY IMPOSE A CIVIL PENALTY OF ONE  
20 THOUSAND DOLLARS PER OCCURRENCE IF A SCHOOL DISTRICT FAILS TO COMPLY WITHIN  
21 FORTY-EIGHT HOURS OF WRITTEN NOTIFICATION, SIGNED BY THE STATE BOARD OF  
22 EDUCATION AND THE SCHOOL DISTRICT GOVERNING BOARD, OF NONCOMPLIANCE WITH THE  
23 FINGERPRINTING REQUIREMENTS PRESCRIBED IN THIS SECTION. THE STATE BOARD OF  
24 EDUCATION SHALL OBTAIN PROOF THAT THE SCHOOL WHERE THE EMPLOYEE WILL BE  
25 ASSIGNED HAS BEEN NOTIFIED AND THE NOTIFICATION SHALL IDENTIFY THE DATE OF  
26 THE DEADLINE. A CIVIL PENALTY SHALL BE IMPOSED AGAINST A SCHOOL DISTRICT  
27 THAT HAS PREVIOUSLY BEEN DETERMINED TO BE OUT OF COMPLIANCE WITH THESE  
28 FINGERPRINTING REQUIREMENTS. CIVIL PENALTIES COLLECTED PURSUANT TO THIS  
29 SECTION SHALL BE COLLECTED BY REQUESTING THE DEPARTMENT OF EDUCATION TO  
30 WITHHOLD AN AMOUNT OF STATE AID EQUIVALENT TO THE CIVIL PENALTY AND SHALL BE  
31 TRANSMITTED DIRECTLY TO THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL  
32 FUND.